

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawing includes changes to Figure 3.

Attachment: Replacement sheet

REMARKS

Claims 1-8, 10 and 12-14 are pending, of which claims 1, 10, 18, 21, 22, 23 and 24 are independent. Claims 10 and 20-22 have been amended to address issues of form. No new matter has been introduced. Applicants respectfully submit that the foregoing claims define over the cited references. Accordingly, Applicants respectfully request the Examiner to pass the application to allowance.

I. Objections to Drawings

The Examiner asserts that Figure 3 should be designated by a legend such as “Prior Art” (Office Action, page 2, § 4).

Applicants amend Figure 3 to include the legend “Prior Art,” as suggested by the Examiner. Applicants believe that the amendments to Figure 3 address the Examiner’s concerns. Accordingly, Applicants respectfully request the Examiner to withdraw the objection to Figure 3.

II. Rejection of Claims under 35 U.S.C. § 112

Claims 10, 12-17 and 20-22 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Examiner indicates that claims 10, 12-17, 21 and 22 recite the limitation “*the optical medium*” throughout the claims. The Examiner asserts that there is insufficient antecedent basis for this limitation in the claim. However, it appears that the Examiner rejects the claims because of the recitation of “*an optical medium*” after defining “*an original optical medium*” or “*a computer-readable optical medium*” (Office Action, page 3, § 7).

Specifically, the Examiner notes that independent claim 10 recites at least “*an original optical medium*” and “*a protection program on an optical medium*”.

Applicants amend claim 10 recite “*a protection program on the optical medium*”.

The Examiner notes that claim 21 recites at least “*a computer-readable optical medium*” and “*searching for a file on an optical medium*”.

Applicants amend claim 21 recite “*searching for a file on the optical medium*”.

The Examiner notes that claim 22 recites at least “*a computer-readable optical medium*” and “*interacting with **an** optical medium*”.

Applicants amend claim 22 recite “*interacting with the optical medium*”.

The Examiner notes that claim 20 recites the limitation “*the instructions*” and that there is insufficient antecedent basis for this limitation in the claim.

Applicants amend claim 20 to delete the limitation “*the instructions*”. Amended claim 20 recites “*the software program*”.

Applicants believe that the foregoing amendments address the Examiner’s concerns. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 10, 12-17 and 20-22 under 35 U.S.C. § 112, second paragraph.

III. Rejection of Claims under 35 U.S.C. §102

Claims 1-8, 10 and 12-24 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pre-Grant Patent Publication No. 2004/0133523 to Inokuchi et al. (hereinafter “Inokuchi”) (Office Action, page 4, § 10). Applicants respectfully traverse the rejection with following remarks.

A. Claim 1

Claim 1 recites:

“A method of preventing use of an unauthorized copy of a software program residing on an optical medium, the method comprising:

providing a protection program on the optical medium, the protection program residing on the optical medium with the software program, the protection program:

searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program;

determining the media type of the optical medium containing the software program; and

inhibiting execution of the software program stored on the optical medium if:

the file is missing on the optical medium, or
the optical medium has media type that indicates that the
optical medium is copied.”

Applicants respectfully submit that Inokuchi does not disclose at least the following features of claim 1: *providing a protection program on the optical medium, the protection program residing on the optical medium with the software program* and that *the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*.

1. First claim feature: *providing a protection program on the optical medium, the protection program residing on the optical medium with the software program*

Inokuchi does not disclose a protection program provided on the optical medium or a protection program that resides on the optical medium with the software program, as recited in Applicants’ claim 1. In Inokuchi, the protection program, i.e. the determining program of the software 14, is installed on the PC 12 ([0030] and Figure 1).

Inokuchi discusses software 14 installed on PC 12. The software 14 is an application program, such as a game or an installer. The software 14 contains a determining program that determines the type of disc that is loaded in the drive 11 (paragraph [0030]). Inokuchi discusses determining whether the disc is a reproduction-only disc or a writable disc. Inokuchi determines whether or not the disc is an original disc (paragraph [0032]).

In Inokuchi, the protection program, i.e. the determining program of the software 14, is installed on a PC 12, as opposed to being provided *on the optical medium*, as required by Applicants’ claim 1. Inokuchi does not disclose *a protection program that resides on the optical medium with the software program*, as recited in Applicants’ claim 1.

The Examiner asserts that the determining program recited in Inokuchi is equivalent to the *protection program* recited in Applicants’ claim 1. The Examiner further asserts that the software recited in Inokuchi is equivalent to the *software program* recited in Applicants’ claim 1. Applicants note that in Inokuchi both of the determining program and the software 14 are

provided on the PC 12, i.e. are installed on the PC 12 (paragraph [0030] and Figure 1). In fact, in Inokuchi, the determining program is contained in the software 14 (paragraph [0030]). In contrast, Applicants' claim 1 recites ***protection program that resides on the optical medium with the software program***. That is, in Applicants' claim 1, both the protection program and the software program reside on the optical medium. Inokuchi does not disclose this claim feature.

2. Second claim feature: *the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*

The Examiner asserts that Inokuchi discloses this feature at paragraph [0155] (Office Action, page 4, § 10). However, the cited section of Inokuchi merely discusses that the determining program of the software 14 determines the loaded disc is an original disc or a copied disc when the disc loaded into the drive is initially accessed. That is, in Inokuchi, when the user puts a disc into the disc drive 11 and tries to access it using the PC 12, the determining program that is installed on the PC 12 determines whether the disc is original or a copy.

Inokuchi is silent about the determining program *searching for a file containing the software on the optical medium* before the determining program determines whether the loaded disc is an original disc or a copied disc. In fact, in Inokuchi, the software 14 contains the determining program and they are both installed on the PC 12. Therefore, Inokuchi cannot disclose looking for a file containing the software on the optical medium because in Inokuchi, the software is already installed on the computer. Inokuchi does not disclose ***the protection program searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program***, as provided in Applicants' claim 1. Thus, Inokuchi does not disclose each and every element of claim 1.

For the reasons set forth above, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 1 be withdrawn.

B. Claims 2-8

Claims 2-8 depend from and incorporate all the features of claim 1. As such, claims 2-8 are allowable for at least the same reasons as set forth above for claim 1. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 2-8 under 35 U.S.C. § 103(a).

C. Claims 10 and 12-24

Independent claims 10, 18, 21-24 recite *searching for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*. Independent claims 10 and 18 further recite *identifying a protection program on the optical medium*.

In light of the remarks provided with respect to claim 1, Applicants respectfully submit that Inokuchi does not disclose each and every feature of claims 10, 18 and 21-24. Claims 12-17 depend from claim 10, and claims 19-20 depend from claim 18. Dependent claims incorporate each and every element of the independent claim upon which they depend. As such, claims 12-17 and 19-20 are allowable for at least the same reasons as set forth above for claims 10 and 18. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 10 and 12-24 under 35 U.S.C. § 103(a).

CONCLUSION

In light of the above amendments and arguments, Applicants respectfully submit that all of the pending claims are in condition for allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. MWS-107RCE2. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: June 17, 2009

Respectfully submitted,

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